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APR 27 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: John D. Walters

Appellant: Nick Bromer

GAU: 3618

Title: DORSIFLEXION SKATE BRAKE

Serial No.: 09/995,097

Filed: Nov. 27, 2001

This paper: April 27, 2006

RESPONSE

Mail Stop Non-Fee After Final
Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450
Sir:

This paper responds to the Final Action of April 21, 2006. The claims were rejected under §102 over Carlsmith, formerly applied. The rejection is respectfully traversed.

(1) The Examiner states (bottom of page 2) that Carlsmith discloses pressing the lifter by a motion consisting of¹ an upward rotation of the toe bone relative to a metatarsal bone (to which each toe bone is hinged). With respect, this is not correct. A toe motion *consisting of* an upward toe rotation would not activate Carlsmith's brake, and therefore would not meet the Applicant's claimed recitation "the toe motion acting to actuate the brake."

The Examiner is invited to consider:

"The improved design utilizes a boot and a frame ..." writes Carlsmith (col. 6, line 37), and also "The boot is attached to the frame via a hinge somewhat to the rear of the middle of the foot" (col. 6, line 45).² This means that the hinge is near the *proximal* end of the metatarsals, far from the *distal* end which articulates with the toe bones. The hinge location is clearly shown in Carlsmith's drawing to be near the proximal end of the metatarsals,³ as is discussed further below.

¹ The phrase "consisting of," unlike "comprising" or "including," excludes brake actuation by other toe motions.

² The hinge pin is shaft 23, see Fig. 4 of Carlsmith.

³ The Examiner is referred to the Brief of December 12, 2002 for anatomical drawings of the foot.